

Date: March 25, 2021
To: Jack Pace, Director, Dept. of Community Development – City of Tukwila
From: Kenny Booth, AICP, Senior Planner
Hari Ponnekanti, PE, Tukwila Public Works Director/City Engineer
Project Name: Tukwila Public Works Facility

Subject: City of Tukwila Public Works Facility: Shoreline Relief Request

Executive Summary

Tukwila Public Works (TPW) seeks to redevelop two existing parcels within close proximity of the Duwamish River, in Tukwila, WA. Implementation of an adjacent shoreline restoration project will place portions of two parcels into the Shoreline Overlay District. In seeking to redevelop the two parcels into a new public works facility, TPW has determined that complying with the expanded Shoreline Master Program (SMP) standards and regulations would prevent full implementation of the redevelopment proposal. Therefore, pursuant to RCW 90.58.580 and Tukwila Municipal Code (TMC) 18.44.110.B.1, TPW requests relief to prevent a redevelopment hardship from occurring on portions of each of the two parcels. Relief is sought for encroachment of shoreline jurisdiction, shoreline buffers, and all applicable regulations of the SMP. As described in detail within this memorandum, TPW has demonstrated compliance with the criteria established in RCW 90.58.580 and TMC 18.44.110.B.1, as summarized here:

(1) The proposed relief is the minimum necessary to relieve the hardship.

- The proposed TPW facility will re-use existing developed/degraded parcels that have been designated for intensive industrial activity.
- Overall intensification of the parcels will be reduced, compared to the existing condition.
- The adjacent restoration project will result in newly placed shoreline jurisdiction on the subject parcels, restricting the ability of TPW to fully implement the proposed project.
- Only those areas of the parcels where conflicts will occur are part of the relief request.

(2) After granting the proposed relief, there is net environmental benefit from the restoration project.

- Impervious surfaces on the parcels will be reduced; stormwater and landscaping improvements will be made.
- The portion of the parcels closest to the Duwamish River will be restored with native vegetation and a public pedestrian trail.

(3) Granting the proposed relief is consistent with the objectives of the shoreline restoration project and with the Shoreline Master Program.

- The requested relief does not conflict with the objectives of the adjacent shoreline restoration project.
- Policy 5.9.4 of the SMP calls for relief when properties are affected by the movement of the ordinary high water mark from habitat restoration projects.

(4) Where a shoreline restoration project is created as mitigation to obtain a development permit, the project proponent required to perform the mitigation is not eligible for relief under the provisions of this section.

- The City of Tukwila is not undertaking the shoreline restoration project as mitigation to obtain a development permit.

This memorandum is in follow-up to the letter dated December 21, 2020, transmitted via email on December 28, 2020 to Maria Sandercock, attached as "Attachment A" for reference.

Introduction

The purpose of this memorandum is to request relief for two parcels from City of Tukwila SMP requirements and new constraints resulting from implementation of an adjacent shoreline restoration project. This relief is requested by TPW consistent with the provisions established in TMC 18.44.100.B.1.a and Revised Code of Washington (RCW) 90.58.580. TPW seeks relief for the parcels, which the City acquired to redevelop into a combined Public Works Shops Facility, as depicted graphically on Figures 1 and 2, and identified as follows:

- 11210 Tukwila International Blvd; parcel #0923049152 (Heiser parcel). The City of Tukwila owns this parcel outright. The adjacent parcel to the southwest (#092349411) is in the process of being consolidated with the Heiser parcel; and
- 11231 East Marginal Way S; parcel #1023049059 (Amalfi parcel). The City has legal possession of this parcel, although Amalfi Investments, LLC will remain the underlying fee owner until the title of the property vests, effective November 1, 2023.

The two parcels at issue are located north of the Duwamish River. The Amalfi parcel is partially within the jurisdiction of the City's Shoreline Overlay District. An earlier restoration project to the east, Duwamish Gardens, previously altered the ordinary high water mark (OHWM) of the Duwamish River on the Amalfi parcel. Currently, another restoration project is underway by King County to the west, Chinook Wind, which will alter the OHWM on both parcels subject to this relief request.

As described below, relief is requested to prevent a redevelopment hardship from occurring on each of the subject parcels. Relief is sought for encroachment of shoreline jurisdiction, shoreline buffers, and all applicable regulations of the SMP.

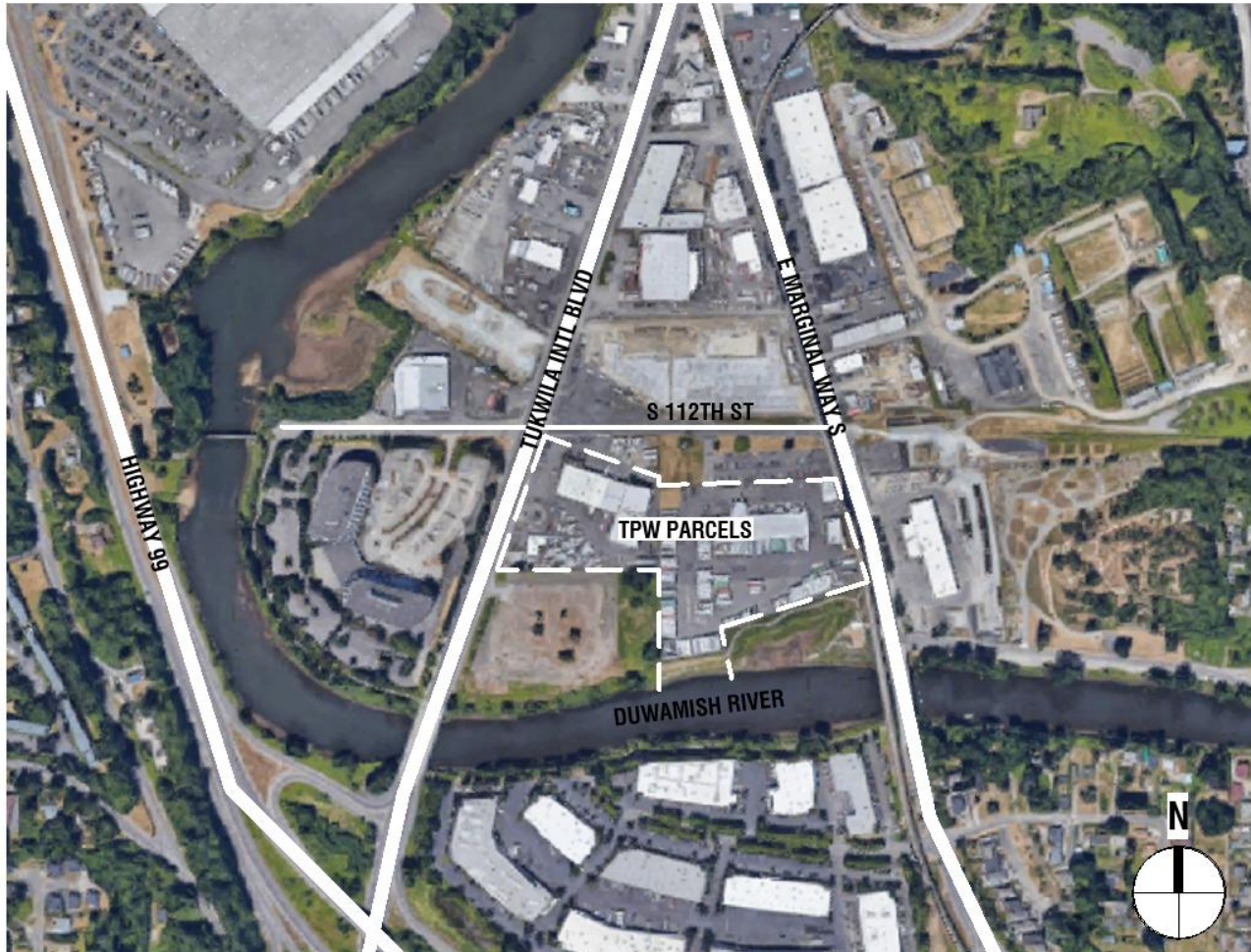


Figure 1. Vicinity map of the subject area.

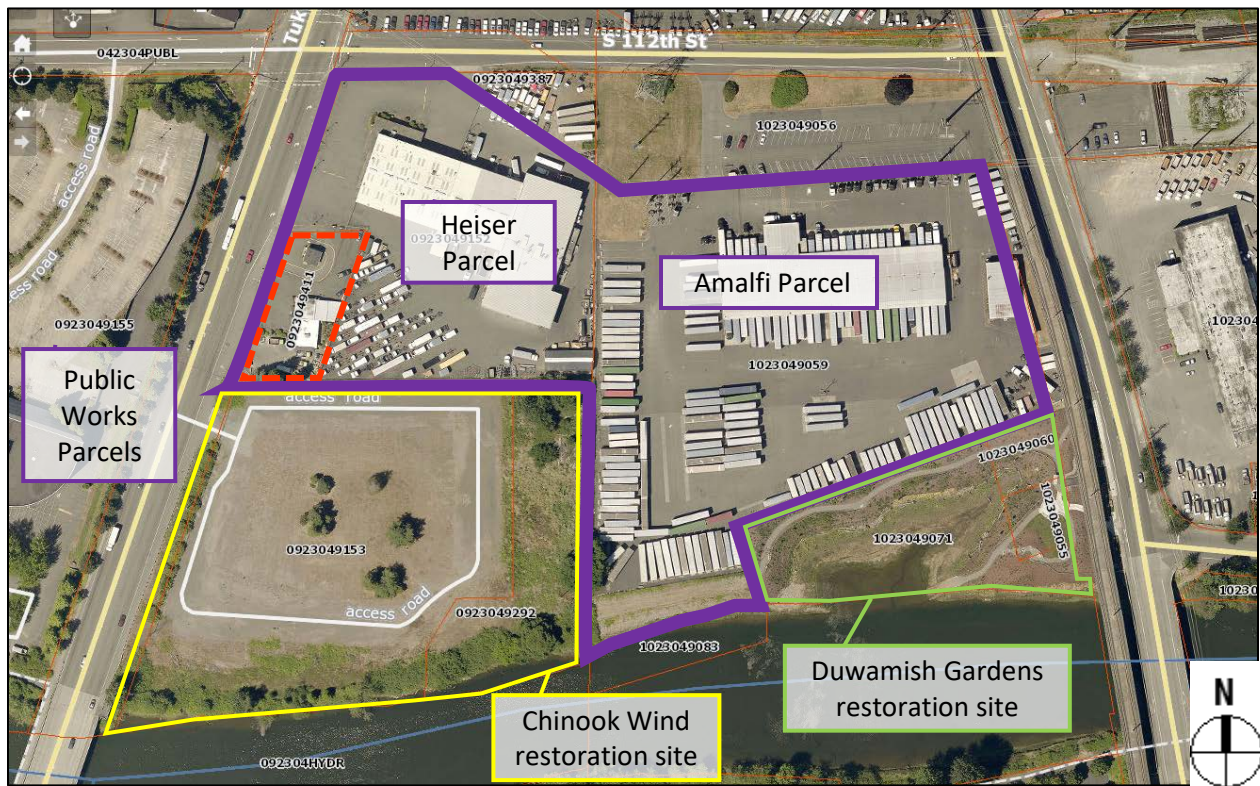


Figure 2. Two Tukwila Public Works parcels (purple)[parcel in red is being consolidated with the Heiser parcel], existing Duwamish Gardens restoration site (green), current Chinook Wind restoration site (yellow).

Existing Conditions

Subject Parcels

The parcels subject to proposed redevelopment by TPW total 10.86 acres, are generally flat, and are almost entirely developed, consisting of industrial buildings and paved areas. The City's Comprehensive Plan designates the parcels as Manufacturing Industrial Center/Heavy (MIC/H); the zoning designation for the parcels is the same. Similarly, the Puget Sound Regional Council's Economic Strategy identifies this area as one of four designated regional manufacturing industrial centers in King County that are planned for the region's most intensive industrial activity.

These parcels are almost entirely developed, containing only small areas of landscaping. The Amalfi parcel is currently leased by UPS and contains a truck terminal. This parcel is almost entirely paved, except for a small patch of grass in the northwest corner and approximately one-third of an acre of unvegetated hillslope on the north bank of the Duwamish River. The southwest lobe of the parcel contains approximately 250 feet of Duwamish River shoreline. The Heiser parcel contains a truck

equipment distributor and commercial vehicle painting facility. Collectively, the two parcels contain approximately 465,000 square feet of impervious surfaces.

Off-Site Duwamish Garden Parcels to the Southeast of the Subject Parcels

The parcels south of the subject TPW parcels contain approximately 1,500 feet of Duwamish River shoreline. These parcels are owned by the City of Tukwila and contain the Duwamish Gardens restoration project, which was implemented in 2015 and 2016. This project created new off-channel habitat for the benefit of juvenile salmon and other fish and wildlife. This project altered the Duwamish River shoreline, bringing the OHWM closer to the Amalfi parcel, substantially increasing the area of the parcel that falls within 200 feet of the Duwamish River OHWM (see Figures 3 and 4). Additionally, new wetland was created as part of the restoration efforts, with the new wetland boundary falling in the same location as the new OHWM.



Figure 3. Duwamish Gardens shoreline, 2015 (image via King County iMap).



Figure 4. Duwamish Gardens shoreline, 2017 (image via King County iMap).

In 2014, the current owner of the Amalfi parcel, Amalfi Investments, LLC, requested relief from the City's SMP under the provisions of RCW 90.58.580, as established in TMC 18.44.100.B. This request was approved by the City of Tukwila and the Washington Department of Ecology and specifically states: "No portion of the property as it relates to the Duwamish Gardens project (or any expansion or extension therefore) shall be within the shoreline buffer."

Further, the City approval is based upon Amalfi's request "to ensure that any future re-development plans are not affected by the movement of shoreline jurisdiction further onto his property." A copy of the Amalfi relief request letter (Attachment B), the City of Tukwila Amalfi recommendation letter (Attachment C), and the Washington Department of Ecology approval letter (Attachment D) are attached for reference. Figure 5 below depicts existing shoreline jurisdiction and buffer boundaries in relation to the subject parcels.



Figure 5. Existing shoreline jurisdiction and shoreline buffer boundaries.

To the southwest, two parcels are owned by the King County Mitigation Reserves Program and comprise the current Chinook Wind restoration site. The area previously contained the Riverside Residences apartments. Buildings and impervious surfaces associated with this use were removed in 2016. Clusters of landscape trees remain in the center of the parcel, while the remainder has been planted with hydroseed. Himalayan blackberry dominates the shoreline vegetation.

The Chinook Wind restoration project is scheduled to begin construction in the spring of 2021, with completion expected by the end of 2021. From measurements taken on aerial photographs, the existing shoreline is at least 350 feet from all portions of the Heiser parcel, and thus, the Heiser parcel is not currently within the jurisdiction of the Shoreline Overlay District.

Proposed Development

Redevelopment of the Subject Parcels into the Tukwila Public Works Facility

TPW has acquired the subject parcels to construct a new Tukwila Public Works facility. The purpose of the TPW project is to meet the needs of the Public Works Department through 2045, so that it can effectively serve the growing population of the City of Tukwila. The facility will consolidate currently dispersed Department facilities into a single location, provide flexibility and capacity for a collaborative and evolving Department, provide a safe environment for workers and visitors, support a long-term

investment strategy to raise facility standards, and exemplify environmental and regulatory stewardship.

The proposed redevelopment requires roughly 66,000 square feet of interior program space including offices, fleet maintenance, repair shops, and warehouse storage; 58,000 square feet of exterior covered and uncovered storage, spoils, and bulk materials, covered and uncovered parking for 285 fleet and staff vehicles, and nearly 200,000 square feet of vehicle circulation. The total proposed program would cover roughly 402,000 square feet in total (9.9 acres). Proposed impervious surfaces will total approximately 375,000 square feet, a reduction of 90,000 square feet compared to the existing condition. This programming constitutes the minimum necessary scale and layout to meet TPW's minimum program requirements and on-site fleet vehicle circulation to fulfil the project purpose. Minimum programming will allow for restoration of the southwest lobe of the Amalfi parcel, complementing the adjacent restoration sites. Additional landscape buffering will be placed along the parcels' southern property lines to screen the restoration sites from the industrial uses on site to the greatest extent possible. Figure 6 depicts the proposed layout of the TPW facility on the two subject parcels.



Figure 6. View of the proposed TPW facility.

Off-Site King County Chinook Wind Restoration Project to the Southwest of the Subject Parcels

Chinook Wind Site

The King County Chinook Wind restoration project will create approximately four acres of new estuarine wetland, aquatic and riparian habitat (see Figure 7). The design includes off-channel aquatic and intertidal mud flat habitat, as well as low and high marsh, and riparian habitat. If the boundaries of the areas designated “marsh” are concurrent with the OHWM, as they are in the Duwamish Gardens mitigation site, the OHWM appears to move landward to within approximately 75 feet of the Amalfi and Heiser parcels. The restoration project is fully funded, has received all necessary City permits, and is expected to be completed by the end of 2021.

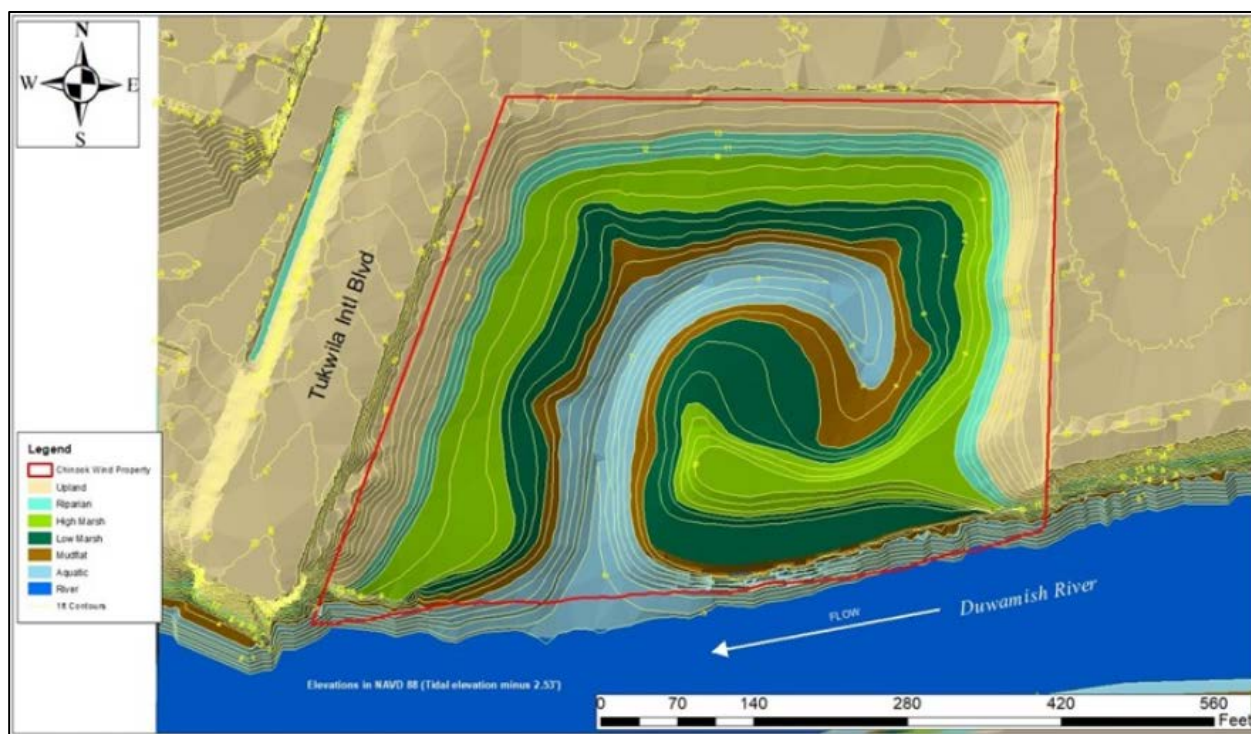


Figure 7. Conceptual design of Chinook Wind project (image via King County Mitigation Reserves Program website).

The City of Tukwila’s Shoreline Overlay District applies to “the channel of the Green/ Duwamish River, its banks, the upland area which extends from the ordinary high water mark landward for 200 horizontal feet on each side of the river, floodways and all associated wetlands within its 100-year floodplain.” (TMC 18.06.758) A small portion of the Amalfi parcel currently resides within shoreline jurisdiction, due to its proximity to the historic channel of the Duwamish River. When the Chinook Wind project is completed, a significant portion of the Heiser parcel that is not within shoreline jurisdiction currently will be within 200 feet of the new Duwamish River OHWM/wetland boundary.

Additional portions of the Amalfi parcel will also be newly impacted. As shown in Figures 8 and 9 below, the King County Chinook Wind restoration project will cause a total of 92,000 square feet of the two subject parcels to be newly placed within the Shoreline Overlay District.



Figure 8. Existing conditions showing approximate location of 200-ft shoreline jurisdiction on the subject parcels following completion of the Chinook Wind restoration project.



Figure 9. Proposed conditions showing approximate location of 200-ft shoreline jurisdiction on the subject parcels following completion of the Chinook Wind restoration project.

Per TMC 18.44.020.2, “all lands not zoned for residential use upstream from the Turning Basin as measured 200 feet landward from the OHWM” are designated as Urban Conservancy Environment. Both subject parcels are zoned Manufacturing Industrial Center/Heavy (MIC/H) and are upstream of the Turning Basin. They would thus fall under the Urban Conservancy environment designation. Per TMC 18.44.040, the Urban Conservancy Environment Buffer shall consist of that area measured 100 feet landward of the OHWM for non-leveed portions of the river, and that area measured 125 feet landward from the OHWM for leveed portions of the river. King County iMap does not map levees along the Duwamish River within the study area. A 100-foot buffer is therefore applied to this area. As shown in Figures 10 and 11 below, a total of 26,000 square feet of the two subject parcels will be newly placed within the 100-foot shoreline buffer.



Figure 10. Existing conditions showing approximate location of the 100-ft shoreline buffer on the subject parcels following completion of the Chinook Wind restoration project.

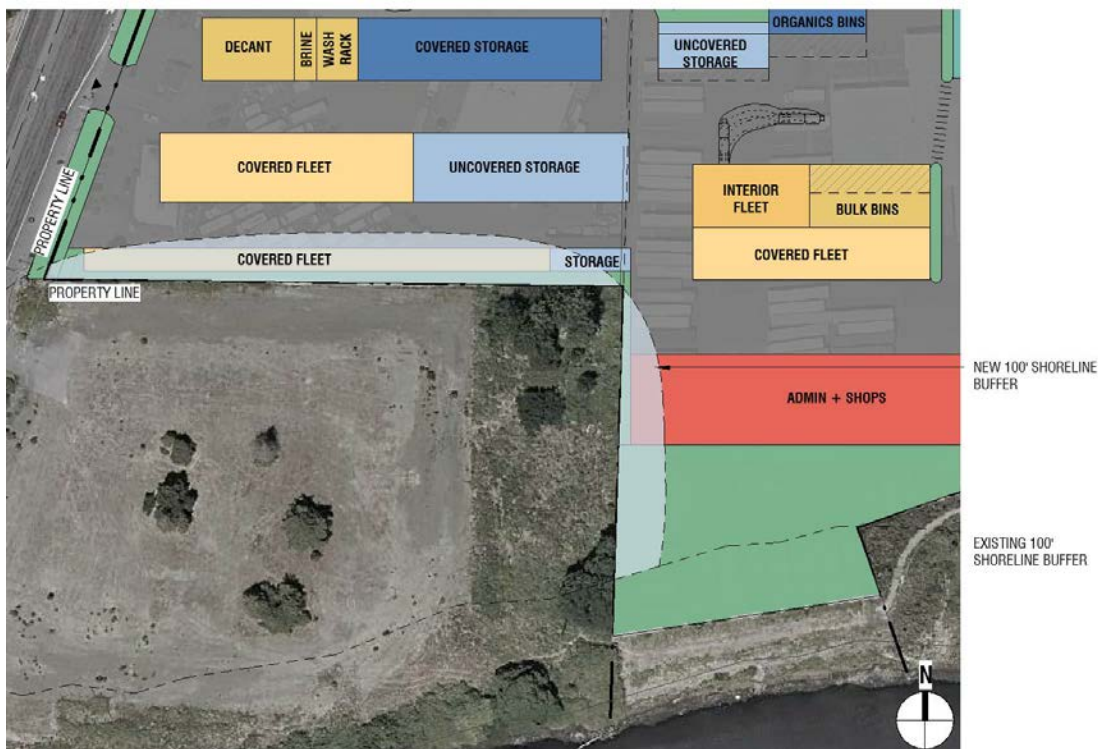


Figure 11. Proposed conditions showing approximate location of the 100-ft shoreline buffer on the subject parcels (proposed condition with TPW facility) following completion of the Chinook Wind restoration project.

Shoreline Regulatory Relief Request

Relief is sought from encroachment of shoreline jurisdiction, shoreline buffers, and all applicable regulations of the SMP. Relief may be granted from shoreline standards when a restoration project results in the change in location of the OHWM and associated shoreline jurisdiction. As stated above, in 2014, the City of Tukwila and the Washington Department of Ecology approved the granting of relief from SMP standards for the portions of the Amalfi parcel that were newly placed in the Shoreline Overlay District due to the Duwamish Gardens restoration project. These approvals have conveyed this relief to any and all future uses on the parcel, including under new ownership.

This memorandum seeks similar relief for the Heiser and Amalfi parcels from the landward expansion of shoreline jurisdiction caused by the King County Chinook Wind restoration project. As described below, relief is requested to prevent a redevelopment hardship from occurring on each of the subject parcels. The specific area of requested relief is shown in Figure 12 below and includes those areas located outside of the original 200-foot shoreline jurisdiction boundary of the Duwamish River. This includes all of the newly placed shoreline jurisdiction area on the Heiser parcel but only a small portion of the Amalfi parcel. The extreme southwest corner of the Amalfi parcel (the area shown primarily in green on Figure 12) will be restored with native vegetation, and thus, is not part of the relief request.



Figure 12. Area of requested relief includes those shown in white above.

Pursuant to TMC 18.44.100.B.1.c, the City may consider the below measures for relief. TPW seeks relief in the areas shown on Figure 12 from all listed measures for the reasons explained herein.

- (1) permitting development for the full range of uses of the underlying zoning consistent with the Zoning Code, including uses that are not water oriented;*
- (2) waiving the requirement to obtain a shoreline substantial development permit if it is otherwise exempt from the requirement for a substantial development permit;*
- (3) waiving the provisions for public access;*
- (4) waiving the requirement for shoreline design review; and*
- (5) waiving the development standards set forth in this chapter.*

Requests for relief must meet the following criteria outlined in RCW 90.58.480 and TMC 18.44.100.B.1.a:

- (1) The proposed relief is the minimum necessary to relieve the hardship.*

The Heiser parcel is currently more than 450 feet landward of the existing OHWM of the Duwamish River. At the time of its purchase in 2020, this parcel was located entirely outside of shoreline jurisdiction and within the MIC/H zone, and was specifically selected for development of the TPW facility to support its industrial uses. The City also initiated purchase of the Amalfi parcel for development due to significant areas positioned outside of shoreline jurisdiction and within the same zoning designation. This area is designated in the Puget Sound Regional Council's Economic Strategy as one of four regional manufacturing industrial centers in King County that are planned for the region's most intensive industrial activity. Together, the parcels represent an adequately sized area that can accommodate the intense nature of the TWP facility within an area intended for this level of intensification. The highly degraded nature of the parcels would result in a reduction in the level of intensification following completion of the TPW facility. Specifically, the parcels include approximately 465,000 square feet of impervious surfaces in their current condition. Upon approval of this relief request and following implementation of the TPW facility proposal, the parcels would contain approximately 375,000 square feet of impervious surfaces, a reduction of 90,000 square feet compared to the existing condition.

The Chinook Winds restoration projects shifts the OHWM nearly 400 feet landward, newly placing the Heiser parcel and portions of the Amalfi parcel under shoreline jurisdiction. As depicted in Figures 6 and 7 above, 92,000 square feet of the subject parcels would be newly placed within shoreline jurisdiction. Of this total, 26,000 square feet would fall within the 100-foot shoreline buffer (Figures 8 and 9). These areas are currently comprised almost entirely of impervious surfaces. The planned development of the TPW facility proposes use of these areas and requires the full range of uses permitted in the underlying zone on the site, including automotive services and engine repair

shops, contractor storage yards, heavy equipment repair, accessory parking, essential public facility, and other industrial uses.

Any proposed development within the Shoreline Overlay District must comply with the general development standards of TMC 18.44, as well as the development standards specific to the Urban Conservancy Environment designation (TMC 18.44.030 and TMC 18.44.050.C). Per the City's shoreline use matrix (*Figure 18-1*), automotive services and storage yards would require approval of Shoreline Conditional Use Permit (SCUP) to locate anywhere within the newly placed Shoreline Overlay District. A SCUP requires a demonstration of compliance with subjective approval criteria (TMC 18.44.100.E.4), with an open record hearing and approval by the City Planning Commission, followed by Washington Department of Ecology review and approval. Special conditions may be attached to the permit by the City or Ecology. This additional need for complex review and approval presents a hardship to TPW, as authorization by multiple approval authorities is not guaranteed, nor were such approvals contemplated when the City acquired these parcels for redevelopment into the proposed TPW facility.

Additionally, according to the same shoreline use matrix, civic/institutional uses are prohibited in the 100-foot urban conservancy buffer. The same prohibition would also apply to any general commercial use, truck terminal, automotive repair, or storage yards. Therefore, none of these planned uses on the properties could be placed within the 26,000 square foot area that would be newly placed within the 100-foot shoreline buffer. These shoreline use provisions would prevent full implementation of the proposed TPW facility on the subject parcels and, therefore, present a hardship to the applicant.

TPW proposes a new facility on the two subject parcels to adequately serve the needs of the City of Tukwila now and in the future. The program requires significant acreage to allow for vehicle and materials storage, along with repair services and adequate circulation. These features cannot be provided within the constraints of the new placed shoreline jurisdiction and buffer. For instance, multi-story structures are not feasible alternatives for the storage of bulk materials (i.e., sand, gravel, etc.); nor can they adequately accommodate the large vehicles (i.e., dump trucks, Vactor trucks, etc.) that are part of the TPW fleet. Therefore, the approximately ten acres of existing impervious area on the Heiser and Amalfi parcels are needed in order to achieve full programming.

TPW proposes to re-use areas of existing impervious surface for its new facility and seeks relief from SMP standards and use regulations to fully implement the proposed project and fulfil the project purpose. This includes, but is not limited to, relief from shoreline permit requirements and shoreline buffer provisions to implement the full suite of needed uses on the parcels, as allowed by the underlying zoning. This relief is sought only for those portions of the two parcels newly placed within shoreline jurisdiction where potential conflicting uses are proposed. This includes all of the

newly placed shoreline jurisdiction area on the Heiser parcel but only a small portion of the Amalfi parcel (see Figure 10 above). Additional new shoreline jurisdiction area on the Amalfi parcel, totaling approximately 4,000 square feet, will be restored with native vegetation, and thus, is not part of the relief request. Therefore, relief from all SMP standards and regulations is the minimum necessary to relieve the hardship imposed by placement of the parcels within the Shoreline Overlay District.

(2) After granting the proposed relief, there is net environmental benefit from the restoration project.

The King County Chinook Wind restoration project will provide a significant environmental benefit over pre-existing site conditions. Persistently inundated aquatic habitat represent extremely limited and critically important habitat for ESA-listed juvenile Chinook. Once common in the Duwamish, marshes are now extremely rare. When adjacent to mudflat and aquatic habitat, marshes provide valuable sources of food for juvenile Chinook. The Chinook Wind restoration project will create significant and valuable off-channel habitat where juvenile salmon can reside while adjusting from fresh water to saltwater as they feed and grow. The restoration site will also include a minimum 25-foot vegetated buffer.

The City's TPW project proposes to redevelop the subject parcels in several ways that will further enhance the net environmental benefit from the Chinook Wind restoration project. The facility will result in an overall reduction of impervious surfaces of approximately 90,000 square feet. In addition, the parcels will include compliance with current stormwater and landscaping requirements. This will create additional tree coverage and stormwater improvements intended to address water quantity and water quality parameters. Biofiltration planters will be incorporated to collect sheet flow from impervious surfaces and filter out contaminants prior to discharge to the Duwamish River. New plantings will also provide food, cover, and nesting opportunities for wildlife. Proposed landscaping will also provide for screening along the site perimeter to limit noise and light impacts, helping to ensure that the Chinook Wind restoration project is successful.

The southwest portion of the Amalfi parcel, where relief is not sought, will be significantly restored. This area currently contains a very narrow vegetated buffer along the Duwamish River, with impervious surfaces located within approximately 50 feet of the OHWM. These impervious surfaces will be removed, and the area within approximately 200 feet of the OHWM would be restored with native vegetation. A publicly-accessible pedestrian trail would also be provided within this area, linking existing/planned trails on the Duwamish Gardens and Chinook Wind restoration sites (see Figure 13 below). Overall, a net environmental benefit will result from granting of the proposed relief request.



Figure 13. Conceptual illustration of shoreline trail network, including portion extending through the southwestern portion of the Amalfi parcel (shaded in light red).

(3) Granting the proposed relief is consistent with the objectives of the shoreline restoration project and with the Shoreline Master Program.

The proposed relief will not increase the level of development within the area of new shoreline jurisdiction. Redeveloping the parcels to a similar level of development as currently exists will therefore not decrease the restoration project's environmental benefit and will be in keeping with King County's overall objective of creating significant and valuable off-channel habitat where juvenile salmon can reside while adjusting from fresh water to saltwater as they feed and grow.

The City's SMP specifically seeks to:

- Recognize and protects shorelines of State-wide significance;
- Preserve the natural character of the shoreline;
- Protect the resources and ecology of the shoreline;
- Increase public access to publicly-owned areas of the shoreline;
- Increase recreational opportunities for the public in the shoreline; and

- Protect and create critical Chinook salmon habitat in the Transition Zone of the Green River.

The SMP also includes specific goals and policies pertaining to development within shoreline jurisdiction. Policy 5.1.2 includes priorities for sites within the Urban Conservancy Environment. Relevant priorities associated with this policy include:

- *Development that promotes vegetation conservation and enhancement, sensitive areas protection, and preservation of water quality to assure no net loss of shoreline ecological functions;*
- *Uses that preserve or restore shoreline ecological functions provided by vegetation, open space, flood plain or sensitive area lands;*
- *Uses that minimize interference with navigation and flood control, consider impacts to public views, and allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration;*
- *Uses that provide public access and public recreation, whenever feasible and when ecological impacts can be mitigated;*
- *Development that is compatible with the natural and biological limitations of the land and water that do not require extensive alteration of the shoreline or new shoreline stabilization, except for restoration projects;*
- *Enhancement and restoration of ecological functions; and*
- *Redevelopment of underutilized areas and development of commercial and industrial activities where shoreline impacts are minimized and where there is no net loss of shoreline functions.*

The proposed TPW facility will result in a reduction of impervious surfaces compared to the existing condition. Further, the area nearest the Duwamish River will be restored with native vegetation and a public pedestrian trail. In keeping with the priorities of SMP Policy 5.1.2, no net loss of shoreline ecological functions will result from the proposed project.

Additional relevant goals within the SMP include the following:

Goal 5.6 - Increase the amount and diversity of opportunities for public recreation and access to and along the river, including visual and cultural access, access to the water's edge, opportunities for small boat navigation and access, and connections to other neighborhoods consistent with the shoreline character.

Goal 5.9 - Restored, enhanced and protected natural environmental resources along the river, including trees, wildlife habitat, and features with value for long-term public, scientific and educational uses.

Goal 5.10 - Improved water quality and quantity control programs affecting the Green/Duwamish River that improve the river's water quality, provide habitat for fish and wildlife, protect public health and safety, and enhance public enjoyment of the river.

The proposed relief request will further the above stated goals through implementation of multiple improvement measures including the addition of a public pedestrian pathway along the river's edge, restoration of the portion of the project area nearest the river, and on-site stormwater and landscape improvements. Together, these actions will result in improved public access and recreation opportunities, a restored natural area adjacent to the river, and improved water quality and habitat functions.

Policy 5.9.4 from the SMP (shown immediately below in its entirety) specifically recognizes support for relief requests such as the one detailed in this letter.

Support relief from certain Shoreline Master Program requirements for properties affected by habitat restoration projects that result in the movement of the ordinary high water mark.

The TPW facility parcels will be affected by movement of the OHWM associated with the Chinook Wind restoration site. This letter constitutes the formal request for relief from SMP requirements for portions of the subject parcels.

All told, the requested relief will allow the City to meet the needs of the new TPW facility and accomplish the above-stated objectives of the SMP, as the proposed redevelopment will provide a new public pedestrian trail connection that will provide a continuous pathway linking the Chinook Wind restoration site to the west with the existing Duwamish Gardens restoration site to the east of the subject parcels (see Figure 12 above). This trail connection will include public viewpoints, park furnishings, and native plants. In addition to increasing public access and recreational opportunities, this trail connection will allow for a shared appreciation of the area's important ecological features. The City's TPW redevelopment project will also include screening along the site perimeter to limit noise and light impacts, in addition the development will focus the heavy traffic and noisy functions along South 112th Street, with the administrative functions along the shoreline - helping to ensure that the Chinook Wind restoration project is successful. Therefore, the requested relief does not conflict with the objectives of the adjacent restoration project or with the objectives of the City's SMP.

(4) Where a shoreline restoration project is created as mitigation to obtain a development permit, the project proponent required to perform the mitigation is not eligible for relief under the provisions of this section.

The City's TPW project is eligible for hardship relief given that King County, not the City, is the proponent of the Chinook Wind restoration project; in other words, the City of Tukwila is not undertaking the shoreline restoration project as mitigation to obtain a development permit.

Summary

Shoreline jurisdiction will encroach onto the proposed TPW facility parcels from implementation of the Chinook Wind restoration project. This will result in a hardship, by placing additional regulatory restrictions/prohibitions in areas of proposed uses/buildings. TPW requests the minimum relief needed; relief is not sought for those areas determined to not have a hardship. Requested relief can be seen in Figure 12 above. The proposed project will not result in an increase of intensification of the parcels over existing conditions; total impervious surfaces will decrease as a result of the project. A portion of one parcel closest to the Duwamish River will be restored to a native condition, with a public pedestrian trail. As thoroughly demonstrated within this letter, the relief request complies with the approval criteria established by RCW 90.58.580 and TMC 18.44.110.B.1. Therefore, TPW requests relief that will ensure shoreline jurisdiction and shoreline buffers that would affect the planned redevelopment areas of the Heiser and Amalfi parcels will be measured from the existing (as of March 2021) Duwamish River OHWM.

Should you have questions regarding this request, please contact:



Hari Ponnekanti, P.E.
Public Works Director
Hari.ponnekanti@tukwilaWA.gov
(206) 431-2455



Kenny Booth, AICP
Senior Planner/Principal, The Watershed Company
kbooth@watershedco.com
(425) 650-1320

Attachment A

12-21-20 Tukwila Public Works Request Letter



City of Tukwila

Allan Ekberg, Mayor

Public Works Department – Hari Ponnekanti, Interim Director

December 21, 2020

Mr. Doug Gresham
Department of Ecology
doug.gresham@ecy.wa.gov – **SENT VIA E-MAIL ONLY**
Northwest Regional Office
3190 160th Avenue SE
Bellevue, WA 98008-5452

RE: 11231 E. Marginal Way S., Tukwila, WA 98168 (“UPS site”)
Shoreline Exemption and Request for Relief under RCW 90.58.580

Dear Mr. Gresham:

I am writing on behalf of the City of Tukwila Public Works Department to request relief from regulations under the City's Shoreline Master Program, pursuant to the provisions of RCW 90.58.580 as implemented through the City's Shoreline Master Program in TMC 18.44.100. Under TMC 18.44.100.B.1, when the movement of the ordinary high water mark (“OHWM”) due to the construction of King County's Chinook Wind shoreline restoration project impacts an adjacent property owner, the following options for relief are available:

1. permitting development for the full range of uses of the underlying zoning consistent with the zoning code, including uses that are not water oriented;
2. waiving the requirement to obtain a shoreline substantial development permit if it is otherwise exempt from the requirement for a substantial development permit;
3. waiving the SMP provisions for public access;
4. waiving the requirement for shoreline design review; and
5. waiving the development standards set forth in the Master Program.

Pursuant to an Agreed Judgment and Decree of Appropriation and Order Granting Immediate Possession and Use entered on December 3, 2018, the City has legal possession of the property located at 11231 East Marginal Way South (King County Parcel #1023049059) (“Impacted Property”). Although Amalfi Investments, L.L.C. continues to be the underlying fee owner, title to the property will vest in the City effective November 1, 2023 as provided in the Judgment and Decree. As a result of King County's implementation of the Chinook Wind shoreline restoration project to the west of the Impacted Property, which will develop a side channel to assist migrating salmon in the Duwamish River, a substantial portion (roughly up to 30%) of the Impacted Property will be affected by being subjected to new

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shoreline jurisdiction, which will result in losing critical vehicular circulation areas around the proposed, new facilities.

RCW 90.58.580 requires that a request for relief from the requirements of the Shoreline Management Act must occur through the issuance of a permit. A shoreline restoration project does not typically require either a shoreline substantial development permit or the need for approval of a shoreline exemption; however, as the City's acquisition of the Impacted Property will not be complete until November 1, 2023, the City seeks to ensure that its redevelopment plans for the Impacted Property are not adversely affected by the landward extension of the shoreline jurisdiction upon completion of King County's Chinook Wind project anticipated in approximately December of 2021. The landward movement of the OHWM onto the Impacted Property is shown on the attached aerial photograph. Without the requested hardship relief, the landward extension of the shoreline jurisdiction will negatively impact the City's proposed redevelopment of over 13 acres of land (the Impacted Property plus the adjacent parcel to the west).

The Impacted Property adjacent to the King County Chinook Wind restoration project is 300,623 square feet or 6.90 acres in size. Currently, 32,900 square feet (.76 acres) of this property lies within the shoreline jurisdiction. Approximately an additional 50,900 square feet (1.17 acres) of the Impacted Property will be burdened by shoreline jurisdiction upon completion of the Chinook Wind project due to the landward extension of the OHWM. As can be seen on the attached aerial photograph, the area that would be burdened by the landward extension of the OHWM is substantial, totaling 83,800 square feet (1.92 acres) and moves the shoreline jurisdiction further onto the actively used portion of the Impacted Property, which is currently a paved parking lot. The addition of the new shoreline area will place approximately 28% of the property in the newly created shoreline jurisdiction impact area once King County's Chinook Wind project is completed.

A similar request for hardship relief was granted in 2015 for the Impacted Property, which was prompted by the Duwamish Gardens restoration project on the eastern side of the Impacted Property. Granting this request for hardship relief as to the west side of the Impacted Property for the Chinook Wind project would be consistent with the prior relief granted in 2015 for the Duwamish Gardens restoration project. Further, and as explained in more detail herein, granting the requested hardship relief would result in net environmental benefit by allowing construction of additional riparian habitat along the Duwamish River, as well as a public access trail connection through the Impacted Property between the Chinook Wind and Duwamish Gardens projects.

I therefore request relief under the City's Shoreline Master Program, as set forth above. Please consider these grounds for relief under the statute:

1. Application of Shoreline Master Program regulations would preclude or interfere with use of the property permitted by local development regulations, thus presenting a hardship to the City. Expansion of shoreline jurisdiction to include a significant portion of the Impacted Property would unduly limit the City's implementation of its redevelopment plan on the site. In addition, the resulting configuration of the unimpacted portion of the property would be so irregular in shape as to be difficult, if not infeasible, to develop in the future. Specifically, site circulation and development of buildings permissible by zoning code would be reduced by 20%, and the irregular shape of the remaining site would reduce developable area by another 10%. The Impacted property is zoned MIC/H - Manufacturing Industrial Center/Heavy Industrial;

however, expansion of the shoreline jurisdiction further limits the uses allowed, including covered storage sheds, covered parking, and operations and a planned, future administrative building near the south property line. The loss of these allowed uses will increase maintenance of vehicles and equipment exposed to the elements, limit the response times for Public Works' response to emergencies (due to the inability to properly stage and equip response vehicles, such as: snow plows, salt trucks, brine trucks, etc.), limit the amount of essential materials (sand/salt/gravel) stored onsite, and risk employee safety due to added/complex circulation routes. These impacts are reflected on the attached masterplan exhibit, which shows the areas to be relieved from the regulations (from landward movement of the OHWM), in order to provide essential daily functions to the City of Tukwila by the Public Works Department.

2. The proposed relief is the minimum necessary to relieve the hardship. The City only requests the minimum relief necessary to prevent hardship related to its planned future use of the site within the shoreline.
3. After granting the proposed relief there is net environmental benefit from the restoration project. The City's plans for the Impacted Property include constructing additional riparian habitat along the Duwamish River, as well as a public access trail connection between the Chinook Wind and Duwamish Gardens projects consistent with the City Council of the City of Tukwila's adoption of Ordinance No. 2540 on June 5, 2017; *see also*, the terms and conditions contained in the document entitled, "Memorandum Regarding Ordinary High Water Mark," recorded June 6, 2017, under Recording No. 20170606000265 of Official King County Records. This new public access trail connection between the Chinook Wind and Duwamish Gardens will provide a net environmental benefit and significant, new public amenity along the Duwamish River. Further, it will replace approximately 2/3 of an acre of the existing paved parking lot on the Impacted Site with native plants, trees, and vegetation to create a riparian habitat along the Duwamish River. These improvements on the City's Impacted Property will result in a net environmental benefit along the Duwamish River.
4. Granting the proposed relief is consistent with the objectives of the shoreline restoration project and consistent with the Shoreline Master Program. For the reasons set forth in this letter, this criterion is satisfied.
5. Moreover, the Public Works shops buildings are "essential public facilities" and are therefore a permitted use in the buffer area. TMC 18.06.270 defines "essential public facilities" as "a facility which provides a basic public service, provided in one of the following manners: directly by a government agency, by a private entity substantially funded or contracted for by a government agency, or provided by a private entity subject to public service obligations (i.e., private utility companies which have a franchise or other legal obligation to provide service within a defined service area). The City's redevelopment plans include new Public Works shops buildings that will provide a wide range of public services to the entire City of Tukwila such as, for example, streets maintenance, fleet operations, stormwater, and sewer operations.

Based on the foregoing reasons, the City of Tukwila Public Works Department requests the granting of relief under RCW 90.58.580 and TMC 18.44.100.B.

Mr. Doug Gresham
December 21, 2020
Page 4

Should you need further information or have any questions regarding this request, please contact me directly at (206) 431-2455 or Hari.Ponnekanti@TukwilaWA.gov.

Sincerely,



Hari Ponnekanti, P.E.
Interim Public Works Director



The undersigned consents to the City's request:
Dan Temkin, Manager
Amalfi Investments, L.L.C.

Enclosure (aerial photographs)



1 SITE PLAN - EXISTING ORDINARY HIGH WATER MARK
1" = 60'-0"





1 SITE PLAN - ORDINARY HIGH WATER MARK W/ PROPOSED CHINOOK WINDS WETLAND
1" = 60'-0"

Attachment B

Amalfi Relief Request Letter



Amalfi Investments, L.L.C.

December 1, 2014

Mr. Jack Pace, Director
Department of Community Development
City of Tukwila
6300 Southcenter Boulevard
Tukwila, Washington 98188

RE: Duwamish Gardens Shoreline Exemption and Request for Relief under RCW 90.58.580

Dear Mr. Pace,


I am writing as manager of Amalfi Investments, L.L.C. to request relief from requirement under the City's Shoreline Master Program, pursuant to the provisions of RCW 90.58.580 as implemented through the City's Shoreline Master Program in TMC 18.44.120. Under TMC 18.44.120, when the movement of the ordinary high water mark due to the construction of a restoration project impacts an adjacent property owner, the following options for relief are available:

1. Permitting development for the full range of uses of the underlying zoning consistent with the zoning code, including uses that are not water-oriented;
2. Waiving the requirement to obtain a shoreline substantial development permit if it is otherwise exempt from the requirement for a substantial development permit;
3. Waiving the SMP provisions for public access;
4. Waiving the requirement for shoreline design review; and
5. Waiving the development standards set forth in the Master Program.

Amalfi is the owner of the property located at 11231 East Marginal Way South (parcel #1023049059). As a result of the City's implementation of the Duwamish Gardens shoreline restoration project, a substantial portion (approximately 47%) of the property will be subjected to shoreline jurisdiction. It is the City's desire to acquire a portion of this property for the implementation of the restoration project. Amalfi is prepared to accommodate this request, but only if the remaining property is not newly burdened by shoreline requirements.


I therefore request relief under the Master Program, as set forth above. Please consider these grounds for relief under the statute:





Mr. Jack Pace
December 1, 2014
Page Two

1. Application of shoreline master program regulations would preclude or interfere with use of the property permitted by local development regulations, thus presenting a hardship to Amalfi. Expansion of shoreline jurisdiction to include almost half the property would unduly limit the range of permissible uses on the property. In addition, the resulting configuration of the unimpacted portion of the property would be so irregular in shape as to be difficult, if not infeasible, to develop in the future.
2. The proposed relief is the minimum necessary to relieve the hardship. Amalfi only requests maintenance of the status quo regarding shoreline jurisdiction on the property. This is the minimum necessary to provide relief for the hardship.
3. After granting the proposed relief, there is net environmental benefit from the restoration project. The granting of relief will directly promote and allow the implementation of the shoreline restoration project at Duwamish Gardens, since it will allow the completion of the property acquisition necessary for the project. This will provide a net environmental benefit.
4. Granting the proposed relief is consistent with the objectives of the shoreline restoration project and consistent with the shoreline master program. For the reasons set forth in this letter, this criterion is satisfied.



For these reasons, Amalfi requests the granting of relief under RCW 90.58.580 and TMC 18.44.120.

Sincerely,

AMALFI INVESTMENTS, L.L.C.



Daniel Temkin, Manager

Attachment C

Tukwila Dept. of Community Development Amalfi Recommendation Letter



City of Tukwila

Department of Community Development

Jim Haggerton, Mayor

Jack Pace, Director

January 5, 2015

David Pater, Shoreline Planner
Northwest Regional Office
Department of Ecology
3190 160th Avenue S.E.
Bellevue, WA 98008-5452

RE: Duwamish Gardens Shoreline Exemption and Request for Relief under RCW 90.58.580

Dear David,

This letter is a follow-up on our conversation on October 24, 2014 regarding the City's shoreline restoration project, known as Duwamish Gardens, illustrated on the attached aerial photo.

Background

The City purchased the Duwamish Gardens site in 2008 for the purposes of converting the property to salmon recovery: approximately one acre of estuarine off channel habitat, two acres of upland terrestrial habitat and passive park features to include a trail on the upland portion of the site, a trail down to the edge of the water and viewpoints to the river. Duwamish Gardens is located in a particularly important portion of the Duwamish River, the "transition zone" where migrating juvenile Chinook salmon feed, take shelter and osmoregulate as they transition from being freshwater fish to saltwater fish.

The restoration site is located in an industrialized portion of the river, with a truck terminal located on the north and west sides of the site, as can be seen from the aerial photo. In order to implement the restoration plan, the City intends to acquire a portion of the truck terminal property (owned by Amalfi Investments, L.L.C.). The shoreline environment designation in this area is Urban Conservancy, the 200 ft. shoreline jurisdiction is divided into a 100 foot buffer area measured from the OHWM and a 100 foot area outside the buffer but within shoreline jurisdiction. The provisions of TMC 18.44.120 2. allow the buffer area to be reduced to 25 feet; in addition, the buffer area will fall completely on the restoration site and will be planted with native plants. No portion of the buffer area will fall on the remaining truck terminal property to the north.

Request

The City and Amalfi Investments, L.L.C, the owner of the truck terminal property located at 11231 East marginal Way South (parcel #102304-9059), are requesting relief under the provisions of

RCW 90.58.580 as implemented through the City's Shoreline Master Program in TMC 18.44.120. Under TMC 18.44.120, when the movement of the ordinary high water mark due to the construction of a restoration project impacts an adjacent property owner, the following options for relief are available:

1. permitting development for the full range of uses of the underlying zoning consistent with the zoning code, including uses that are not water-oriented;
2. waiving the requirement to obtain a shoreline substantial development permit if it is otherwise exempt from the requirement for a substantial development permit;
3. waiving the SMP provisions for public access;
4. waiving the requirement for shoreline design review; and
5. waiving the development standards set forth in the Master Program.

RCW 90.58.580 requires that a request for relief from the requirements of the Shoreline Management Act must occur through the issuance of a permit. Typically, a shoreline restoration project does not require either a shoreline substantial development permit or the need for approval of a shoreline exemption. Currently, Amalfi does not have development plans for the truck terminal site, however, the owner wants to ensure that any future re-development plans are not affected by the movement of shoreline jurisdiction further onto his property. As a result, Tukwila is using the mechanism of a shoreline exemption for the restoration project to address Amalfi's request for relief from the provisions of the City's Shoreline Master Program. This is consistent with RCW 90.58.580(1)(c), which provides that if a shoreline permit is required, then "the department shall conduct its review when the local government provides a copy of a complete application and all supporting information necessary to conduct the review."

The parcel adjacent to the restoration site is 261,360 sq. ft. site or 6 acres in size. Currently, 56,192 sq. ft. (1.29 acres) of this property lies within the shoreline jurisdiction. Approximately 25% of the property within the current shoreline jurisdiction is intended to be acquired by the City for implementation of the restoration program. As can be seen on the attached aerial photograph, the area that would be newly captured in shoreline jurisdiction as a result of the restoration project is substantial, totaling 67,082 sq. ft. (1.53 acres) and moves shoreline jurisdiction further onto the actively used portion of the truck terminal site. The addition of the new shoreline area will place 47% of the property in shoreline jurisdiction.

Amalfi has provided a narrative describing the hardship to its property created by the additional shoreline jurisdiction that will be located on its property once the restoration project is constructed. Please see the attached letter from Amalfi.

Truck terminals and other industrial uses are a permitted use outside the shoreline buffer area in the Urban Conservancy environment. In response to Amalfi's request for relief, the City is approving the following for the portion of his property located at 11231 East Marginal Way South (parcel #1023049059) that will fall within the newly created shoreline jurisdiction once the restoration project is completed:

David Pater, Shoreline Planner
Washington State Department of Ecology
January 5, 2015

1. The full range of uses permitted in the underlying zoning will be allowed except for those specifically prohibited by the Shoreline Master Program (hazardous substance processing and handling and hazardous waste treatment and storage facilities; mining; dredging; hydroelectric and private utility power generating plants);
2. Requirements and provisions for public access to the shoreline will be waived, as the restoration project will provide public access;
3. The development standards of the Shoreline Master Program will be waived.
4. The requirement for shoreline design review shall be waived.
5. The requirement to obtain a shoreline substantial development permit shall be waived where permitted by law.
6. No portion of the property as it relates to the Duwamish Gardens project (or any expansion or extension thereof) shall be within the shoreline buffer.

We request that the Department of Ecology concur with the City's approved request for relief for parcel number 102304-9059.

If you have any questions or need additional information, please contact Carol Lumb, 206-431-3661.

Sincerely,



Jack Pace, Director
Department of Community Development

Enclosures: Aerial Photo: 200 ft. Shoreline Jurisdiction – Before and After Restoration
Duwamish Gardens Project – 50% Drawings
12-1-14 Letter from Amalfi Investments, LLC, re Request for Relief
Shoreline Exemption – Duwamish Gardens

cc: Erik Stockdale, Department of Ecology
Ryan Larson, Senior Project Manager, Public Works Dept.
Dan Temkin, Amalfi Investments, LLC
Jack McCullough, McCullough Hill Leary, PS

Attachment D

Ecology Amalfi Approval Letter



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Northwest Regional Office • 3190 160th Ave SE • Bellevue, WA 98008-5452 • 425-649-7000
711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341

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COMMUNITY
DEVELOPMENT

January 16, 2014

Mr. Jack Pace, Director
City of Tukwila
Department of Community Development
6300 Southcenter Boulevard, Suite 100
Tukwila, WA 98188

RE: Duwamish Gardens Shoreline Exemption and Request for Relief under RCW 90.58.580

Dear Mr. Pace,

This letter is in response to your January 5, 2015 letter requesting shoreline jurisdiction relief for Almalfi Investments LLC property located at 11231 East Marginal Way (parcel # 102304-9059).

Ecology concurs with the City's approved request for relief under RCW 90.58.580 (Shoreline restoration projects — Relief from shoreline master program development standards and use regulations).

Thank you and we look forward to the implementation of the Duwamish Gardens restoration project.

Please let me know if you need further assistance.

Sincerely,

David Pater

CC: Carol Lumb, Tukwila Department of Community Development
Dan Temkin, Almalfi Investments LLC